UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,895	09/18/2003	William Samuel Herz	NVID-071/00US P000710	7004

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EXAMINER
PHILIPPE, GIMS S

ART UNIT	PAPER NUMBER
2621	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-21_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-21_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☒ All   b)☐ Some *   c)☐ None of:
        1.☒ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____ .
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _3/23/07_.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

This is a first office action in response to application no. 10/665,895 filed on September

18, 2003 in which claims 1-21 are presented for examination.

Claim Rejections - 35 USC § 101

1　　35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

> Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

> When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

> In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

2.   Claims 11-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claim 11 calls for a computer readable medium. However, the claim does not define a computer-readable medium or memory embodying instruction and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). That is, the scope of the presently claimed computer-readable medium can range from paper on which the program is written, to a program simply contemplated and memorized by a person.

The examiner suggests amending the claim to embody the program on "computer-readable medium" or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claims 12-16 are rejected by dependency to claim 11.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (e) the invention was described in a patent granted on an application for patent by another filed in the
> United States before the invention thereof by the applicant for patent, or on an international application
> by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this
> title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act

of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior

to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.   Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by

DaGraca et al. (US Patent no. 6646676).

Regarding claims 1, 11 and 17, DaGarca discloses a method and a digital video

recorder and comprising an event detector configured to define a target region included

in a plurality of video frames (See DaGarcia col. 3, lines 60-67, and col. 11, lines 17-24),

the event detector being configured to detect movement of an object representing in the

target region based on a motion vector associated with the object (See DaGarca col. 5,

lines 11-15, lines 49-51 and col. 4, lines 6-12), an event recorder coupled to the event

detector, the event recorder being configured to coordinate storage of at least a portion

of the plurality of video frames in response to the detected movement (See fig. 2,

recorder 204, col. 5, lines 6-8), and an event notifier coupled to the event detector, the

event notifier being configured to generate an event notification in response to the

detected movement (See DaGarca col. 6, lines 27-33).

As per claims 2 and 18, most of the limitations of these claims have been noted in the

above rejection of claims 1 and 17. In addition, DaGarca further detect movement of

the object based on identifying a reference point of the object, the motion vector being

associated with the reference point (See DaGarca col. 11, lines 17-34).

As per claims 3 and 12, DaGarca further discloses a reference point corresponding to a

portion of a perimeter of the object (See DaGarca col. 11, lines 40-46).

As per claims 15-16,and 20, the limitations of these claims have been noted in the

rejection of claims 11. In addition, DaGarca further generate and event notification and

transmits the event notification via a network (See DaGarca col. 6, lines 27-38 lines 62-

67).

As per claim 4, DaGarca further detect movement of the object based on at least one of

a magnitude and orientation of the motion vector (See DaGarca col. 9, lines 62-67).

As per claims 5, 7-8, and 21, DaGarca further coordinates storage portion of the

plurality of video frames corresponding to the target region (See DaGarca fig. 2, items

207, 204, and 209, and col. 5, lines 39-46).

As per claim 6, most of the limitations of this claim have been noted in the rejection of claims 1. In addition, DaGarca further coordinates the storage of audio data in response to the detected movement (See col. 11, lines 17-34).

As per claims 9-10, DaGarca further provides an event tracker configured to track objects in response to the detected movement (See col. 11, lines 35-46 and lines 57-67).

As per claim 13, DaGarca further motion vector based on MPEG-format video data associated with at least one of the frames (See col. 9, lines 13-46).

As per claim 14, centering the target region is considered as an inherent aspect when tracking the object.

As per claim 19, DaGarca further converts the video data from a first format to another format (See col. 4, lines 61-67, and col. 5, lines 1-8).

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Talmon et al. (US Patent Application Publication no. 2005/0036659) teaches method

and system for efficiently performing event detection in a large number of concurrent

image sequences.

Lambert (US Patent no. 6421080) teaches digital surveillance system with pre-event

recording.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gims S. Philippe whose telephone number is (571) 272-

7336. The examiner can normally be reached on M-F (10:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dastouri Mehrdad can be reached on (571) 272-7418. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gims S Philippe
Primary Examiner
Art Unit 2621

GSP

March 19, 2007